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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re CONNETICS SECURITIES
LITIGATION

Case No. C 07-02940 SI

**LEAD PLAINTIFF'S NOTICE OF
SUPPLEMENTAL AUTHORITY**

Pursuant to Local Civil Rule 7.3(d), Lead Plaintiff Teachers' Retirement System of Oklahoma ("Lead Plaintiff") respectfully submits without argument the attached Memorandum and Order in the action styled *Gargiulo v. Isolagen, Inc.*, 2:05 CV 04983 RB, 2007 WL 2791827 (E.D. Pa. Sept. 26, 2007), for the Court's consideration in ruling upon defendants' motions for dismissal. *Gargiulo* was published after Lead Plaintiff submitted its opposition briefing to the motions for dismissal and Lead Plaintiff is filing this Notice prior to defendants' filing of reply papers. *Gargiulo* further supports the arguments in Lead Plaintiff's Opposition to the Connetics' Motion to Dismiss [Dkt. 45] at 13-14 (addressing defendants' contention that "courts have dismissed securities fraud claims based on a defendant's alleged failure to disclose adverse test results relating to a new drug where (as here) reasonable minds could differ on the significance of the results." Connetics' Motion to Dismiss [Dkt. 22] at 19, n.14). In this regard, the *Gargiulo* court held:

[I]t is not appropriate at this stage in the pleadings to dismiss based on the importance, or lack thereof, of the product development information. As the Third Circuit pointed out in *In re Adams Golf, Inc.* 381 F.3d 267, 274-275 (3d Cir. 2004): "Materiality is ordinarily an issue left to the factfinder and is therefore not typically a matter for Rule 12(b)(6) dismissal." Furthermore, dismissal on the basis of the materiality of the product development information would only be appropriate "if the alleged misrepresentations or omissions are so obviously unimportant to an investor that reasonable minds cannot differ on the question of materiality" *Shapiro v. UJB Financial Corp.*, 964 F.2d 272, 281 n.11 (3d Cir. 1992).

Gargiulo, 2007 WL 2791827, at *6.

Dated: October 1, 2007

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Brandy M. Roberts, do hereby certify that on this 1st day of October, 2007, true and correct copies of the foregoing

- Lead Plaintiff's Notice of Supplemental Authority

wer filed electronically. Those attorneys who are registered with the Electronic Case Filing ("ECF") System may access this filing through the Court's system, and notice of this filing will be sent to the parties by operation of the Court's ECF System. Attorneys not registered with the Court's ECF system will be duly and properly served via facsimile and/or Federal Express (as indicated on the attached Service List), in accordance with the Federal Rules of Civil Procedure and the Court's Local Rules.

I further declare that, pursuant to Civil L.R. 23-2, on this date I served copies of the above documents on the Securities Class Action Clearinghouse by electronic mail through the following electronic mail address provided by the Securities Class Action Clearinghouse:

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/s/Brandy M. Roberts

Brandy M. Roberts

Service List

In re CONNETICS SECURITIES LITIGATION

Case No.: 07-02940

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